

9 Official Opinions of the Compliance Board 232 (2015)

- ◆ **2(B) NOTICE CONTENTS: ONLINE POSTING OF AGENDA NOT REQUIRED**
- ◆ **3(A) OPENNESS REQUIREMENT: NO REQUIREMENT IN THE ACT THAT PUBLIC BE PERMITTED TO COMMENT**
- ◆ **6(B)(1) MINUTES: ONLINE POSTING NOT REQUIRED; CONSISTENCY RECOMMENDED**

***Topic numbers and headings correspond to those in the Opinions Index (2014 edition) at http://www.oag.state.md.us/Opengov/Openmeetings/OMCB_Topical_Index.pdf**

April 9, 2015

Re: Mayor and Board of Commissioners of Rising Sun
Roger Lamb, Complainant

In a letter to the Office of the Attorney General and to us, Roger Lamb (“Complainant”) makes a number of complaints about his efforts to acquire from the Town of Rising Sun certain information about public business. Here, we will address only the allegations that relate to the Open Meetings Act. We do so because the Act only authorizes us to consider complaints that the Act has been violated.¹ We thus lack the authority to address the statements in the letter that bear on other matters, such as Complainant’s allegations about the Town’s Public Information Act practices. Accordingly, our staff asked the Town to respond to the allegations that the Town’s Planning and Zoning Commission had not made minutes available for its “recent meetings” and that the Board of Commissioners do not give adequate notice of their meetings.

With respect to Planning and Zoning Commission minutes for recent meetings, the Town Attorney states that the minutes are not posted on the Town’s website but are available to anyone who requests them, and, further, that Complainant did not request them. He also explains that the Planning and Zoning Commission adopts the minutes of each meeting at the next meeting, and he points out, as we have often, that the Act does not require public bodies

¹ Our authority is spelled out in §§ 3-204 through 3-213 of the General Provisions Article. The Act can be accessed through the Attorney General’s website by following the “Open Government” link to the headings for open meetings information. <http://www.oag.state.md.us/index.htm>. The citations in this opinion are to that Article.

to post their minutes online. In answer to our staff's question about how often that commission meets, he conveyed his understanding that it usually meets monthly. So, the commission keeps minutes, adopts them promptly, and makes them available. It therefore has not violated the Act's provisions on minutes.

We turn next to Complainant's allegation that the Board of Commissioners has not posted adequate notice of its meetings, has not posted agendas in advance, and has not permitted public comment. Although Complainant did not identify a deficiency in the notice given for any particular meeting, we asked the Town to respond to that allegation, and the Town Attorney provided us with a description of the Town's notice practices. We do not find a violation in that regard. We also do not find any violation regarding the posting of agendas, because the Act does not require public bodies to post agendas. That would change if House Bill 583, now pending in the General Assembly, is enacted; it proposes such a requirement. As for public comment, the Act entitles the public to observe the conduct of public business, *see* §§ 3-102, 3-303, but it does not regulate presiding officers' decisions as to whether members of the public may speak during a meeting.

We will add some guidance on how public bodies might avoid the complaints that sometimes arise when a member of the public does not see a meeting document on the public body's website. We do so because we are increasingly seeing complaints from people who have inferred from the absence of a meeting notice or minutes on a public body's website that the public body failed to give notice or adopt minutes. People are particularly apt to reach those inferences, accurately or not, when a public body's website provides meeting information for some of its related public bodies but not others. Likewise, posting complete information for only some of the related public bodies can lead to speculations about the motives behind the public body's choices of what to put on its website. *See, e.g., 8 OMCB Opinions* 76, 83 (2012)(noting the appearance that can be given by a public body's choices of the meetings information that it posts online). One way to guard against unfounded suspicions might be to post an explanation of what the public can expect to find (or not) on the website. Another, when resources allow, is to simply post all the meeting information the same way. We do not know whether such measures would have addressed this Complainant's doubts, but the Town's website provides the meeting dates and minutes of the meetings of the Board of Commissioners, but, as far as we could tell, not the meeting notices and minutes of the Planning and Zoning Commission.

In sum, we have not found that the Town violated the Act, and we lack the authority to address the other matters asserted by the Complainant.

Open Meetings Compliance Board

Monica J. Johnson, Esquire
Wanda Martinez, Esquire
Mamata S. Poch, Esquire